

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

**SENSITIVE**  
RECEIVED  
FEDERAL ELECTION  
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION  
2012 DEC 28 AM 9:38

2012 DEC 28 AM 9:45

In the Matter of )

MUR 6591 )

Friends of Tom Stilson )

and Wanda Martens as treasurer )

**CELA**  
CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended, (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act or underlying Commission regulations has occurred, to make no reason to believe findings.

In this matter, the Complaint alleges that Friends of Tom Stilson<sup>2</sup> and Wanda Martens in her official capacity as treasurer (the "Committee"), maintained a website that failed to comply with the Act's disclaimer requirements. Specifically, the Complaint states that one

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1 of the Commission's disclaimer regulations, 11 C.F.R. § 110.11(a)(3), requires "[a]ll public  
2 communications by any person" that solicit a contribution to include a disclaimer. Compl. at  
3 1. In addition, the Complaint cites to 11 C.F.R. § 110.11(c)(2)(ii), which requires that "the  
4 disclaimer included in printed communications must be contained within a printed box set  
5 apart from the other contents of the communication." *Id.*; see also 2 U.S.C. § 441d(c)(2).

6 According to the Complaint, the Committee maintained a website that included the  
7 disclaimer "Paid for by Friends of Tom Stilson," but failed to enclose the disclaimer within a  
8 printed box. Compl. at 1, Ex. A.

9 The Committee responds that its website disclaimer complies with the Commission's  
10 disclaimer requirements. Resp. at 1. The Committee does not dispute the Complaint's  
11 assertion that its website disclaimer lacked a printed box, but it maintains that the  
12 Commission has "unanimously defined 'printed communications' as not extending to  
13 websites." *Id.*

14 Pursuant to 11 C.F.R. § 110.11(a)(1), the Committee's internet website is required to  
15 have a disclaimer. However, with respect to the additional disclaimer requirements for  
16 printed communications set forth at 2 U.S.C. § 441d(c) and 11 C.F.R. § 110.11(c)(2),  
17 including the printed box requirement, the Commission has concluded that "Internet pages"  
18 do not constitute "printed communications." See, e.g., Statement of Reasons, Comm'rs.  
19 Weintraub, Walther, Lenhard, Mason, Toner & von Spakovsky at 4, MUR 5526 (Graf for  
20 Congress, *et al.*) ("SOR"); MUR 6406 (Lee Terry for Congress, *et al.*) (citing the SOR, the  
21 Commission unanimously found no reason to believe that a printed box was required around  
22 a disclaimer on an Internet campaign advertisement).

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1 In the MUR 5526 SOR, the Commission explained its reasoning as follows:

2 First, the ordinary meaning of the word "print" does not include  
3 communication on Internet pages . . . [w]hile such information can  
4 often be printed out, neither the printing nor the existence of a printout  
5 transforms the Internet page itself into a printed communication.  
6 Second, when FECA uses the words "Internet," "web," "website," or  
7 "electronic" . . . it does not mean something ordinarily understood as  
8 being in print or in printed form . . . For the foregoing reasons, the  
9 term "printed communication" in 2 U.S.C. § 441d(c) does not include  
10 communication on Internet pages.  
11

12 SOR at 2-4 and note 9; *see also* Resp. at 1-2.

13 Consistent with the Commission's reasoning in the SOR, the Committee's website  
14 disclaimer was not required to be enclosed within a printed box. Therefore, the Office of  
15 General Counsel recommends that the Commission find no reason to believe that Friends of  
16 Tom Stilson and Wanda Martens in her official capacity as treasurer violated 2 U.S.C.  
17 § 441d(c)(2) and 11 C.F.R. § 110.11(c)(2)(ii). The Office of General Counsel also  
18 recommends that the Commission approve the attached Factual & Legal Analysis, approve  
19 the appropriate letters, and close the file.

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**RECOMMENDATIONS**

1. Find no reason to believe that Friends of Tom Stilson and Wanda Martens in her official capacity as treasurer violated 2 U.S.C. § 441d(c)(2) and 11 C.F.R. § 110.11(c)(2)(ii);
2. Approve the attached Factual & Legal Analysis and the appropriate letters; and
3. Close the file.

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12/27/12  
Date

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